

## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

YOR920030437US1 (8728-653)

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on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

10/780,140

Filed

February 17, 2004

First Named Inventor

Dougherty et al.

Art Unit

2825

Examiner

Ehichioys, Fred I

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

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Registration number \_\_\_\_\_

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Registration number if acting under 37 CFR 1.34 \_\_\_\_\_



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October 27, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below\*.

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\*Total of \_\_\_\_\_ forms are submitted.

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**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicants:** Dougherty et al.

**Examiner:** P. Dinh

**Serial No.:** 10/780,140

**Group Art Unit:** 2825

**Filed:** February 17, 2004

**Docket:** YOR920030437US1 (8728-653)

**For:**           **METHOD FOR OPTIMIZATION OF LOGIC CIRCUITS FOR  
ROUTABILITY IMPROVEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

**Statement in Support of Pre-Appeal Brief Request for Review**

This Statement is being filed in support of Applicants' Pre-Appeal Brief Request for Review. A Notice of Appeal has been filed herewith in response to the Final Office Action dated August 1, 2006. Applicants respectfully contend that the claim objections and rejections set forth in the Final Office Action are clearly erroneous as a matter of fact and law.

Applicants respectfully contend that the objections of claims 1, and 13-14 and the rejections of claims 1, 2, 4-10, and 13-14 are legally deficient as a matter of law and fact for the reasons that follow and those set forth in Applicants' previous Response, dated September 21, 2006, which is incorporated herein by reference.

### Claim Objections

The Examiner erroneously contends that “structural metric” is not defined in claims 1, and 13-14. The Examiner’s contention is wholly belied by the clear and unambiguous claim language, e.g., claim 1 recites *inter alia*, “*creating a structural metric prior to physical design, the structural metric being proportional to a routability of the circuit design model after the physical design*”. It should be readily apparent from this claim language that the scope of the term “structural metric” is clearly provided in the claims. In particular, “structural metric” is a metric (or a measure) that is created before a physical design of a circuit, which is proportional to a routability of the circuit design after the physical design.

This was fully explained in Applicant’s prior response. It should be noted that in the Advisory Action the Examiner has failed to address Applicant’s explanation as regarding the scope of the term “structural metric” as set forth in the claims. This is not surprising as the Examiner’s claim rejections are premised on the Examiner’s mistaken belief that the scope of the term “structural metric” is not provided in the claims, and uses this as an excuse to wantonly and erroneously construe the prior art references as teaching “structural metric”, as explained hereinafter.

### Claim Rejections - § 102

(1) Applicants contend that Sanie does not anticipate claims 1, 4-5, 7-9, and 13-14. At the very least, Sanie does not disclose or suggest “creating a structural metric being proportional to a routability of the circuit design model after the physical design”, as recited *inter alia*, in claims 1, 13, and 14. The Examiner contends that the claimed “structural metric” is best understood as the

“Cell library including the Mask Cost Metric” in figure 3. This is an erroneous interpretation because the cell library is clearly defined in paragraph 5 of Sanie, and a structural metric or its equivalent is not mentioned. While a mask cost metric is later added to each cell in the cell library in paragraph 12 of Sanie, a mask cost metric is defined to be a measure of the cost of making a mask set, which is not the same as a structural metric which is proportional to the routability of the circuit design model after the physical design.

Accordingly, claims 1, 13, and 14, are not anticipated by Sanie. Moreover, claims 4-5, and 7-9 are patentable over Sanie at least by virtue of their dependence from claim 1.

(2) Applicants also strongly disagree with the Examiner’s contention that Higashida anticipates claims 1-2, 4-7, 9-10, and 13-14. At the very least, Higashida does not anticipate claims 1, 13 and 14. It is submitted that Higashida does not disclose or suggest “creating a structural metric prior to physical design”, as recited *inter alia*, in claims 1, 13, and 14. The Examiner contends that Higashida discloses “creating a structural metric prior to physical design” in figures 9-19, but offers no explanation. The Examiner has the burden to establish anticipation by showing how Higashida discloses each and every limitation in the claims. It is unclear which elements of which of the eleven figures are specifically relevant to the Examiner’s anticipation rejection. It is not the Applicants’ burden to show how Higashida does not anticipate the claims. In any event, after a careful inspection, Applicants find nothing in the cited eleven figures which remotely relates to “creating a structural metric prior to physical design.”

Accordingly, claims 1, 13, and 14, are not anticipated by Higashida. Moreover, claims 2, 4-7, and 9-10 are patentable over Higashida at least by virtue of their dependence from claim 1.

**Conclusion**

In view of the foregoing remarks, it is respectfully submitted that all claim objections and claim rejections should be reversed.

Respectfully submitted,



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